

The Catholic Lawyer

Volume 4
Number 2 *Volume 4, Spring 1958, Number 2*

Article 2

May 2016

Immigration - A Legal and Moral Problem

Joseph T. Tinnelly, C.M.

Follow this and additional works at: <https://scholarship.law.stjohns.edu/tcl>



Part of the [Ethics and Political Philosophy Commons](#), and the [Immigration Law Commons](#)

Recommended Citation

Joseph T. Tinnelly, C.M. (1958) "Immigration - A Legal and Moral Problem," *The Catholic Lawyer*. Vol. 4 : No. 2 , Article 2.

Available at: <https://scholarship.law.stjohns.edu/tcl/vol4/iss2/2>

This Symposium Article is brought to you for free and open access by the Journals at St. John's Law Scholarship Repository. It has been accepted for inclusion in The Catholic Lawyer by an authorized editor of St. John's Law Scholarship Repository. For more information, please contact seljbyc@stjohns.edu.

IMMIGRATION – A LEGAL AND MORAL PROBLEM

There is probably no moral question on which Pope Pius XII has spoken so frequently and fervently in the past decade as on the problem created by excess populations and refugees.

The culmination of this anxiety of the Holy Father over migration was the publication on August 1, 1952 of the Apostolic Constitution *Exsul Familia*.¹ This document describes the “motherly solicitude of the Church on behalf of immigrants” and promulgates new norms for migration activity adapted to the present needs of migrants and refugees. It embodies in essence a clear, concise, yet detailed statement of the responsibilities of Christians for the care of the migrant. It is applicable both to our times and to the future.

Two basic moral conclusions stand out and are controlling in both this and all other Papal pronouncements on the subject of immigration: (1) the individual has the natural right not to be hampered in immigration. The Creator of the world, in fact, made all things primarily for the good of all. (2) Reasonable limitations of the free exercise of the right to immigration are legitimate. However, it is the duty of the state to justify its action in each case with reasons based upon the common good properly understood and properly applied.

It is particularly important that this Catholic teaching be brought to the attention of the legislators and jurists of our country who are presently engaged in the tremendous task of re-evaluating and reformulating an effective immigration policy soon to be expressed in new legislative enactments. It is equally important that the lawyers of our country be made aware of the moral principles applicable to this immigration problem, for they also have an obligation to direct their efforts toward the attainment of a just and proper legislative solution.

¹44 ACTA APOSTOLICAE SEDIS 649 (1952).

In particular, the Catholic lawyer should ask himself the question: "Does the immigration program of the United States conform in its basic policies and in its administrative practice to sound principles of morality?" Especially is this question applicable in reference to the alleged rights of our country to limit immigration for the following reasons:

1. to maintain the standards of living already attained;
2. to prevent a further extension of widespread unemployment;
3. to carry out a program for full employment.

In an effort to encourage study and discussion of these problems, the current issue of THE CATHOLIC LAWYER features a symposium on immigration which presents the opinion of representative Catholic experts.

The opening article, *A Catholic Attitude on Immigration* by Rt. Rev. Msgr. Edward E. Swanstrom, serves a two-fold purpose. It delineates the scope of the symposium problem and it establishes the basic principles and moral conclusions which Catholic teaching requires to be recognized and applied in its solution. Msgr. Swanstrom is an internationally recognized authority in the field of immigration. He is the Executive Director of Catholic Relief Services — National Catholic Welfare Conference, and he has been the recipient of many citations and decorations from foreign governments for relief work accomplished under his administration.

The next two articles are primarily informative. They provide the structural details of the international migration organizations which, in the opinion of Msgr. Swanstrom, have performed a major portion of the work involved in the resettlement of particular segments of the world migration problem. The International Refugee Organization, more commonly known as the IRO, and its successor body, the Intergovernmental Committee for European Migration, equally better known as ICEM, are described by George Warren of the United States Department of State in his article *The Development of Intergovernmental Collaboration in Migration*.

The International Catholic Migration Commission, written by James J. Norris, the Commission Director, is a brief outline of the activities of an international organization created by the Catholic Church in 1952 to work in cooperation with the ICEM, with which it has the same common goal. Both organizations are expressions of a concern, well above selfish, petty or even national levels, for the grave problem of excess populations.

The remaining two symposium articles concentrate on an analysis and critique of past and present United States immigration legislation in light of Catholic principles.

The Legal Aspect of Immigration, by Mr. David P. Doyle, member of the Legal Department of the National Catholic Welfare Conference, contains an excellent summary of the historical evolution of United States immigration legislation, coupled with a detailed discussion of the fallacies embodied in the present McCarran-Walter Act.

The Refugee and U. S. Legislation, by Very Rev. Msgr. Aloysius J. Wycislo, focuses upon the necessity for new legislation and highlights present legislative inadequacies.

Msgr. Wycislo is presently Assistant Executive Director of Catholic Relief Services, NCWC and Director of its Resettlement Division. He has on several occasions served as the Delegate of the Holy See to the United Nations.

The phenomena of emigration and immigration are open to scientific and historical investigation. Spiritually, the norms which should govern them have been clearly defined by the Papal Constitution, *Exsul Familia*. It is for our American legislators, therefore, to view migration in the full light of scientific study and Christian morality. In it they should recognize the finger of God and an opportunity for great human achievement.

Joseph T. Tinnelly, c.m.

EDITOR